

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

JON HIZTROTH,

Appellant,

v.

DEPARTMENT OF CORRECTIONS,

Respondent.

) Case No. RULE-01-0032

)
) FINDINGS OF FACT, CONCLUSIONS OF
) LAW AND ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** Pursuant to RCW 41.64.060 and WAC 358-01-040, this matter came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair. The hearing was held in the Personnel Appeals Board Hearing Room, 2828 Capitol Boulevard, Olympia, Washington, on May 17, 2002. RENÉ EWING, member, reviewed the record and participated in the decision in this matter.

1.2 **Appearances.** Appellant did not appear and no representative appeared on his behalf. Art Haro, Human Resources Manager, represented Respondent Department of Corrections.

1.3 **Nature of Appeal.** This is a rule violation appeal in which Appellant contends that the department violated WACs 356-30-005; 180; 190; and 330.

1.4 **Citations Discussed.** WAC 358-30-170.

II. BACKGROUND

2.1 On December 13, 2001, Appellant filed a rule violation appeal alleging that the Department of Corrections had violated WACs 356-30-005; 180; 190; and 330. In his appeal, Appellant alleged that the department violated the rules when they “filled a newly allocated position with a lateral transfer.”

2.2 On February 1, 2002, Appellant was notified that the hearing on his appeal was scheduled for May 17, 2002. Approximately one week prior to the May 17 hearing, the Board was notified that Appellant did not intend to pursue his appeal. Appellant did not provide the Board with a written and signed withdrawal of his appeal.

2.5 On Friday, May 17, 2002, the hearing on Appellant’s appeal was convened. Appellant did not appear. Respondent subsequently moved to have the Board deny Appellant’s appeal on the basis of WAC 358-70-170, which places the burden of proof in a rule violation appeal on the Appellant.

2.6 The Board took Respondent’s motion under advisement and now issues its ruling.

III. DISCUSSION

3.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter herein.

3.2 In an appeal of an alleged rule violation, Appellant has the burden of proof. (WAC 358-30-170).

1 3.3 Because Appellant failed to appear at his hearing, he failed to meet his burden of proof and
2 the appeal should be denied.

3
4 **ORDER**

5 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Jon Hiztroth is denied.

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7 DATED this _____ day of _____, 2002.

8
9 WASHINGTON STATE PERSONNEL APPEALS BOARD

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11 _____
Walter T. Hubbard, Chair

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13 _____
René Ewing, Member